

**United States Bankruptcy Court
Central District of California
Santa Ana
Judge Mark Wallace, Presiding
Courtroom 6C Calendar**

Wednesday, September 8, 2021

Hearing Room

6C

9:00 AM

8:15-13556 John Olaf Halvorson

Chapter 7

Adv#: 8:17-01120 Kosmala v. Hoosten et al

#1.00

CONT'D STATUS CONFERENCE RE: Complaint:

(1) To Avoid And Recover Fraudulent Transfers Pursuant To 11 U.S.C. Sections 548(a)(1)(A), 548(a)(1)(B) And 550;

(2) To Avoid And Recover Fraudulent Transfers Pursuant To 11 U.S.C. Sections 548(a)(1)(A), 548(a)(1)(B) And 550;

(3) For Breach Of Contract;

(4) To Avoid And Recover Fraudulent Transfers Pursuant To 11 U.S.C. Sections 548(a)(1)(A), 548(a)(1)(B) And 550;

(5) To Avoid And Recover Preferential Transfers Pursuant To 11 U.S.C. Sections 547 And 550;

(6) For Resulting Trust;

(7) For Constructive Trust;

(8) To Preserve Transfers For The Benefit Of The Estate Pursuant To 11 U.S.C. Section 551; And

(9) For Attorneys' Fees And Costs
(set per order entered 3-2-18)

FR: 4-25-18; 7-25-18; 11-14-18; 12-12-18; 4-17-19; 7-17-19; 10-16-19; 1-22-20; 5-20-20; 11-18-20; 4-14-21

Docket 1

Tentative Ruling:

APPEARANCES NOT REQUIRED.

The Court will continue this hearing to January 19, 2021 at 9:00 a.m. to be heard concurrently with other status conferences for this bankruptcy case.

COURT TO PREPARE ORDER.

Party Information

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CONT... John Olaf Halvorson

Chapter 7

Debtor(s):

John Olaf Halvorson

Represented By
Marc C Forsythe
Charity J Manee

Defendant(s):

David Hoosten

Pro Se

PCC Fund 1, LLC

Pro Se

Rod Van Zandt

Pro Se

Plaintiff(s):

Weneta M.A. Kosmala

Represented By
Reem J Bello

Trustee(s):

Weneta M Kosmala (TR)

Represented By
Reem J Bello
Faye C Rasch
Jeffrey I Golden

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9:00 AM

8:20-13178 Adrian Alejandro Ruiz Guzman

Chapter 7

Adv#: 8:21-01008 SchoolsFirst Federal Credit Union v. Guzman

#2.00

CONT'D STATUS CONFERENCE Hearing RE: Complaint to Determine
Dischargeability of Debt
(Complaint filed 2-2-21)

FR: 4-21-21

Docket 1

***** VACATED *** REASON: OFF CALENDAR - DEFAULT
JUDGMENT ENTERED ON 7/14/21 (DOCKET NO. 16).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Adrian Alejandro Ruiz Guzman

Represented By
Marlin Branstetter

Defendant(s):

Adrian Alejandro Ruiz Guzman

Pro Se

Joint Debtor(s):

Daniela Vazquez

Represented By
Marlin Branstetter

Plaintiff(s):

SchoolsFirst Federal Credit Union

Represented By
Paul V Reza

Trustee(s):

Thomas H Casey (TR)

Pro Se

**United States Bankruptcy Court
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9:00 AM

8:19-12322 9025 Colorado Ave., LLC

Chapter 7

Adv#: 8:21-01036 Marshack v. PIRS Capital, LLC, a New York limited liability co

#3.00

STATUS CONFERENCE RE: Complaint for:

- (1) Usury [Cal. Const. Art. XV §1];
- (2) Violations of the California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200 et seq.);
- (3) Unconscionable Contract (Cal. Civ. Code § 1670.5);
- (4) Money Had and Received;
- (5) Avoidance, Recovery, and Preservation of Constructive Fraudulent Transfer [11 U.S.C. §§ 548, 550 and 551]; and
- (6) Avoidance, Recovery, and Preservation of State Law Constructive Fraudulent Transfer [11 U.S.C. §§ 544, 550 and 551; Cal Civ. Code §§ 3439.04, 3439.05, 3439.07]

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will issue the following scheduling order:

All discovery shall close on March 31, 2022.

All discovery motions shall be heard before April 30, 2022.

All pretrial motions (except motions in limine) shall be heard before May 31, 2022.

A status conference is set for June 22, 2022 at 10:00 a.m.

COURT TO PREPARE ORDER.

Party Information

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CONT... 9025 Colorado Ave., LLC

Chapter 7

Debtor(s):

9025 Colorado Ave., LLC

Represented By
Blake J Lindemann

Defendant(s):

PIRS Capital, LLC, a New York

Pro Se

Plaintiff(s):

Richard A. Marshack

Represented By
D Edward Hays
Tinho Mang

Trustee(s):

Richard A Marshack (TR)

Represented By
D Edward Hays
Tinho Mang
Brett Ramsaur

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9:00 AM

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Chapter 7

Adv#: 8:21-01047 Fargo et al v. Block et al

#4.00

CONT'D Hearing RE: Motion to Transfer Venue to the United States Bankruptcy Court for the Middle District of Florida
(Motion filed 7-9-21)

FR: 8-11-21

Docket 2

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will grant the motion and transfer venue to the Middle District of Florida.

MOVANT TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Defendant(s):

Christine Julia Block	Pro Se
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Epic Victory Inc	Pro Se
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Plaintiff(s):

Dena Fargo	Represented By Steven M Berman
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Deborah Allen	Represented By Steven M Berman
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9:00 AM

8:19-11987 Enalasys Corporation

Chapter 11

#5.00

CONT'D POST CONFIRMATION STATUS CONFERENCE Hearing RE: (1)
Status Of Chapter 11 Case; And (2) Requiring Report On Status Of Chapter 11
Case
(Petition filed 5/23/19)
(Plan Confirmed on 3-10-21)

FR: 8-7-19; 12-11-19; 1-22-20; 5-13-20; 9-16-20; 9-23-20; 2-17-21; 3-10-21

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will inquire into the UST's views with respect to this case.

Next status conference: TBD.

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Enalasys Corporation

Represented By
Michael Jones
Sara Tidd

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9:00 AM

8:19-14489 Luis Daniel Ochoa

Chapter 11

#6.00

CONT'D STATUS CONFERENCE Hearing RE: (1) Status Of Chapter 11 Case;
And (2) Requiring Report On Status Of Chapter 11 Case
(Petition filed 11/17/19)

FR: 1-22-20; 6-3-20; 10-21-20; 2-17-21; 5-26-21

Docket 19

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will inquire into the Debtor's compliance with UST guidelines and requirements.

Next status conference: September 29, 2021 at 2:00 p.m. in connection with the disclosure statement hearing.

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Luis Daniel Ochoa

Represented By
Anerio V Altman

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9:00 AM

8:15-15311 Freedom Communications, Inc.

Chapter 11

Adv#: 8:21-01034 Freedom Communications Inc. et al v. California Department of Tax and Fee

#7.00

STATUS CONFERENCE Hearing RE: Complaint to 1) Determine Amount of Taxes Owed to California Department of Tax and Fee Administration (CDTFA) Under Bankruptcy Code §505(a)(1), and 2) Determine Amounts of Refunds Owed by CDTFA Pursuant to Bankruptcy Code §505(a)(2); Objection to Pre-petition Claims and Administrative Claims of the CDTFA (Complaint filed 6-17-21)

Docket 1

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will issue the following scheduling order:

All discovery shall close on June 30, 2022.

All discovery motions shall be heard before July 31, 2022.

All pretrial motions (except motions in limine) shall be heard before August 31, 2022.

A status conference is set for September 14, 2022 at 10:00 a.m.

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Freedom Communications, Inc.

Represented By
William N Lobel
Beth Gaschen
Alan J Friedman

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CONT... Freedom Communications, Inc.

Chapter 11

Christopher J Green
Caroline Djang
Scott D Fink
Reed M Mercado
Jeffrey W Dulberg
Rika Kido
Jonathan T Amitrano

Defendant(s):

California Department of Tax and

Pro Se

Plaintiff(s):

Freedom Communications Holding,

Represented By
Jonathan T Amitrano

Freedom Communications Inc.

Represented By
Jonathan T Amitrano

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9:00 AM

8:18-13311 Ruby's Diner, Inc., a California corporation

Chapter 7

Adv#: 8:21-01014 Marshack v. Cavanaugh et al

#8.00

Hearing RE: Emergency Motion For Denial Of Plaintiffs Summary Judgment Motion Without Prejudice Pursuant To FRCP 56(D), Or, In The Alternative, For Deferment Of Consideration And Continuance Of Hearing On The Same (Motion filed 9-3-21)
(Set per OST entered 9-3-21)

Docket 245

Tentative Ruling:

APPEARANCES REQUIRED.

Plaintiff-chapter 7 trustee Richard Marshack ("Plaintiff") moves for summary judgment (the "MSJ") on various counts in his complaint against Ruby Diner's principals Cavanaugh and Kosmides and defendant Beachcomber Management Crystal Cove LLC ("Beachcomber"). Plaintiff alleges wrongful appropriation of a Ruby' Diner corporate opportunity that occurred about 16 years ago and much more recent alleged actually fraudulent and constructively fraudulent transfers of loans made by Ruby's Diner to Messrs. Cavanaugh and Kosmides. The MSJ is calendared to be heard by this Court on October 4, 2021. Defendants Cavanaugh, Kosmides and Beachcomber move on an emergency basis for continuation of the hearing of the MSJ so that they may gather facts through discovery that may aid them in opposing the MSJ.

The issues raised by Plaintiff in the MSJ are fact-intensive on a major scale. Such issues include whether Ruby's Diner shareholders all consented to the transaction involving Beachcomber, whether Ruby's Diner lacked the financial wherewithal to carry out the Beachcomber transaction on its own, whether the statute of limitations that was allegedly tolled by domination of Ruby's Diner by Messrs. Cavanaugh and Kosmides was in fact tolled or whether their alleged domination was less than complete and, perhaps most important of all, whether allowing a plaintiff to bring

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CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

extremely old and stale claims based upon a purportedly tolled statute of limitations would violate due process of law. Regarding the loans that were converted into capital distributions, issues of fact may be present such as whether Messrs. Kosmides and Cavanaugh had been underpaid in connection with past services rendered to Ruby's Diner, whether the conversion from loans to capital distributions was in respect to promises of the performance of future services by Messrs. Cavanaugh and Kosmides to Ruby's Diner or whether such recharacterizations were compelled by federal or state income tax considerations. (The Internal Revenue Service closely scrutinizes loans made by closely-held corporations to shareholder-employees to determine whether they are in fact and substance disguised dividends or disguised payment of salary).

Defendants are entitled to an opportunity to ferret out and develop facts that may be essential for their defense of this action. Even when a court decides a matter purely based upon issues of law, prudence dictates that such court have a full understanding of the relevant facts. Issues of law cannot be decided in a factual vacuum or upon facts limited to those chosen by the party seeking relief.

For these reasons, the Court grants Defendants' emergency motion pursuant to Federal Rule of Bankruptcy Procedure 7056 and Federal Rule of Civil Procedure 56(d)(1) (relying here upon the Declaration of Avi Mutar in support of the emergency motion) and defers consideration of the MSJ until factual discovery is complete and all discovery motions have been heard and determined. Here, fact discovery closes February 28, 2022 and discovery motions must be heard before March 31, 2022.

The hearing on the MSJ is continued to April 20, 2022 at 10:00 a.m.

DEFENDANTS TO LODGE ORDER VIA LOU WITHIN 7 DAYS.

Party Information

Debtor(s):

Ruby's Diner, Inc., a California

Represented By
William N Lobel
Jeffrey P Nolan

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CONT... Ruby's Diner, Inc., a California corporation

Chapter 7

Defendant(s):

Douglas Cavanaugh

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
David P Crochetiere

Ralph Kosmides

Represented By
Leo A Bautista
Aviram Edward Muhtar
Maria L Garcia
David P Crochetiere

Beachcomber Management Crystal

Represented By
Leo A Bautista
Maria L Garcia
Aviram Edward Muhtar

Lighthouse Cafe, LLC

Represented By
Steven C Smith
Stephen C Biggs

Beachcomber at Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs

Shake Shack Crystal Cove, LLC

Represented By
Steven C Smith
Stephen C Biggs

Plaintiff(s):

Richard A. Marshack

Represented By
Christopher Dale Beatty

Trustee(s):

Richard A Marshack (TR)

Represented By
Laila Masud
D Edward Hays

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CONT...

Ruby's Diner, Inc., a California corporation

Chapter 7

Tinho Mang

Christopher Dale Beatty

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10:00 AM

8:21-11421 Eddie G. Castillo and Vera G. Castillo

Chapter 7

#1.00

Hearing RE: Reaffirmation Agreement Between Debtor and Bank of the West
(Reaffirmation filed 7-26-21)

**[RE: 2017 Salem 211SSXL - Amount: \$20,122.95]
[VIN No.: 4X4TSMW29HE021249]**

Docket 16

***** VACATED *** REASON: OFF CALENDAR - AMENDED
REAFFIRMATION FILED WITH DEBTOR'S COUNSEL APPROVAL
FILED 8-3-2021 (DOCKET NO. 19).**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Eddie G. Castillo

Represented By
Tina B Hoover

Joint Debtor(s):

Vera G. Castillo

Represented By
Tina B Hoover

Trustee(s):

Richard A Marshack (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:21-11241 Gregory Allen Birdsall

Chapter 7

#2.00

Hearing RE: Reaffirmation Agreement Between Debtor and American Honda Finance Corporation
(Reaffirmation filed 7-20-21)

**RE: 2019 Honda CRV - Amount: \$6,810.30]
[VIN No. 2HKRW1H86KH501874]**

Docket 13

Tentative Ruling:

APPEARANCES REQUIRED.

Grant and approve if (1) the payments on the loan are current, (2) the vehicle is insured, and (3) the debtor is comfortable with a reaffirmation.

Party Information

Debtor(s):

Gregory Allen Birdsall

Pro Se

Trustee(s):

Jeffrey I Golden (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room

6C

10:00 AM

8:21-11026 Heidi Ferguson

Chapter 7

#3.00

Hearing RE: Reaffirmation Agreement Between Debtor and CarMax Auto Finance
(Reaffirmation filed 7-23-21)

**[RE: 2014 Ford Escape - Amount: \$11,042.28]
[VIN No.: 1FMCU0J98EUC37636]**

Docket 14

Tentative Ruling:

APPEARANCES REQUIRED.

The reaffirmation agreement is **not** approved, as it is not in the best interest of the Debtor(s).

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Heidi Ferguson

Represented By
Anthony Almaz

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

**United States Bankruptcy Court
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10:00 AM

8:21-11026 Heidi Ferguson

Chapter 7

#4.00

Hearing RE: Reaffirmation Agreement Between Debtor and SchoolsFirst
Federal Credit Union
(Reaffirmation filed 7-22-21)

[RE: Loan - Amount: \$443.96]

Docket 12

Tentative Ruling:

APPEARANCES REQUIRED.

The reaffirmation agreement is **not** approved, as it is not in the best interest of the Debtor(s).

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Heidi Ferguson

Represented By
Anthony Almaz

Trustee(s):

Weneta M.A. Kosmala (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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Wednesday, September 8, 2021

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2:00 PM

8:20-13309 Richard Lawrence Spix

Chapter 11

#1.00

Hearing RE: Motion for Order: (1) Approving Disclosure Statement; (2) Approving Notice Procedures; (3) Establishing confirmation Procedures and Deadlines; and (4) Establishing Certain Bar Dates
(Motion filed 7-28-21)
(D.S. filed 7-28-21)
(Amended Plan filed 7-28-21)

Docket 73

Tentative Ruling:

APPEARANCES REQUIRED.

The Court will sustain the objections of the UST and Starflinger and LA Investments LLC and continue the disclosure statement hearing to November 10, 2021 at 9:00 a.m. An amended plan and disclosure statement shall be filed on or before October 8, 2021. Objections are due October 15, 2021 and replies to objections October 22, 2021.

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

Richard Lawrence Spix

Represented By
Brett Ramsaur

**United States Bankruptcy Court
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Wednesday, September 8, 2021

Hearing Room 6C

2:00 PM

8:19-11218 US Direct LLC

Chapter 7

Adv#: 8:20-01102 Golden v. Fletcher Jones Motor Cars, Inc.

#2.00

Hearing RE: Order to Show Cause Directing Derek Doherty to Show Cause Why He Should Not be Held in Civil Contempt for Failure to Provide Complete Responses and Documents to Defendant Fletcher Jones Motor Cars, Inc.'s Subpoena
(Set per OSC entered 7-19-21)

Docket 37

Tentative Ruling:

APPEARANCES NOT REQUIRED.

Based upon Fletcher Jones Motor Cars, Inc.'s reply to Derek Doherty's response (Docket No. 52), filed August 27, 2021, the Court will dismiss the OSC.

COURT TO PREPARE ORDER.

Party Information

Debtor(s):

US Direct LLC

Pro Se

Defendant(s):

Fletcher Jones Motor Cars, Inc.

Represented By
Annie Y Stoops

Plaintiff(s):

Jeffrey I. Golden

Represented By
Royce Zur

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CONT... US Direct LLC

Chapter 7

Trustee(s):

Jeffrey I Golden (TR)

Represented By

Roye Zur

Monica Rieder